

# PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

## PCT

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL SEARCH REPORT AND  
THE WRITTEN OPINION OF THE INTERNATIONAL  
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

To:  
GARY ABELEV  
BAKER BOTTS L.L.P.  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112-4498

Patent Mail Received  
JAN 12 2005

|                                     |             |
|-------------------------------------|-------------|
| Date of mailing<br>(day/month/year) | 20 DEC 2004 |
|-------------------------------------|-------------|

Applicant's or agent's file reference  
069225.0153 0362/17 PCT - 475387-14

**FOR FURTHER ACTION** See paragraphs 1 and 4 below

International application No.  
PCT/US04/10152

International filing date  
(day/month/year) 31 March 2004 (31.03.2004)

Applicant  
THE GENERAL HOSPITAL CORPORATION

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

**Filing of amendments and statement under Article 19:**

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

**When?** The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

**Where?** Directly to the International Bureau of WIPO, 34 chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

**For more detailed instructions**, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
Facsimile No. (703) 305-3230

Authorized officer

Samuel A. Turner

Telephone No. 703-308-0956

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

|  |   |  |  |
|--|---|--|--|
| Applicant's or agent's file reference<br>069225.0153 | <b>FOR FURTHER ACTION</b>   |  | see Form PCT/ISA/220<br>as well as, where applicable, item 5 below |
| International application No.<br>PCT/US04/10152      | International filing date ( <i>day/month/year</i> )<br>31 March 2004 (31.03.2004) | (Earliest) Priority Date ( <i>day/month/year</i> )<br>31 March 2003 (31.03.2003) |  |
| Applicant<br>THE GENERAL HOSPITAL CORPORATION        |   |  |  |

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 3 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. **Basis of the Report**

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).



With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.



**Certain claims were found unsearchable** (See Box No. II)



**Unity of invention is lacking** (See Box No. III)



With regard to the **title**,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. 1



as suggested by the applicant.



as selected by this Authority, because the applicant failed to suggest a figure.



as selected by this Authority, because this figure better characterizes the invention.



none of the figures is to be published with the abstract.

**Box IV TEXT OF THE ABSTRACT** (Continuation of Item 5 of the first sheet)

The technical features mentioned in the abstract do not include a reference sign between parentheses (PCT Rule 8.1(d)).

**NEW ABSTRACT**

Speckle, a factor reducing image quality in optical coherence tomography ("OCT"), can limit the ability to identify cellular structures that are important for the diagnosis of a variety of diseases. The present invention allows for an implementation of an angular compounding, angular compounding by path length encoding ("ACPE") for reducing speckle in OCT images. By averaging images obtained at different incident angles, with each image encoded by path length, ACPE maintains high-speed image acquisition and implements minimal modifications to OCT probe optics. ACPE images obtained from tissue phantoms and human skin in vivo demonstrate a qualitative improvement over traditional OCT and an increased signal-to-noise ratio ("SNR"). Accordingly, apparatus probe catheter, and method are provided for irradiating a sample. In particular, an interferometer(5) may forward forwarding an electromagnetic radiation(10). In addition, a sample arm may receive the electromagnetic radiation, and can include an arrangement(20) which facilitates a production of at least two radiations(30,40) from the electromagnetic radiation so as to irradiate the sample. Such arrangement can be configured to delay a first radiation of the at least two radiations with respect to a second radiation of the at least two radiations.

## INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/10152

## A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : G01B 9/02

US CL : 356/479

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 356/479, 497

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category *    | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No.                                |
|---------------|--|--|
| X<br>---<br>A | WO 01/33820 A1 (HAAG-STREIT AG) 31 May 2001(31.5.2001), see figure 4.              | 1, 11-13, 21-23, 25, 26<br>-----<br>2-10, 14-20-, 24 |

☐ Further documents are listed in the continuation of Box C.☐ See patent family annex.

## \* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T"

later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X"

document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y"

document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&amp;"

document member of the same patent family

Date of the actual completion of the international search

29 October 2004 (29.10.2004)

Date of mailing of the international search report

20 DEC 2004

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Samuel A. Turner

Telephone No. 703-308-0956

From the  
INTERNATIONAL SEARCHING AUTHORITY

# PCT

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:  
GARY ABELEV  
BAKER BOTTS L.L.P.  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112-4498

Date of mailing  
(day/month/year)

20 DEC 2004

Applicant's or agent's file reference

**FOR FURTHER ACTION**

See paragraph 2 below

069225.0153

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US04/10152

31 March 2004 (31.03.2004)

31 March 2003 (31.03.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): G01B 9/02 and US Cl.: 356/479

Applicant

**THE GENERAL HOSPITAL CORPORATION**

### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

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Samuel A. Turner

Telephone No. 703-308-0956

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US04/10152

**Box No. I Basis of this opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/US04/10152

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

|                               |   |     |
|-------------------------------|---|-----|
| Novelty (N)                   | Claims <u>2-10, 14-20, and 24</u>         | YES |
|                               | Claims <u>1, 11-13, 21-23, 25, and 26</u> | NO  |
| Inventive step (IS)           | Claims <u>2-10, 14-20, and 24</u>         | YES |
|                               | Claims <u>1, 11-13, 21-23, 25, and 26</u> | NO  |
| Industrial applicability (IA) | Claims <u>1-26</u>                        | YES |
|                               | Claims <u>NONE</u>                        | NO  |

2. Citations and explanations:

Claims 1, 11-13, 21-23, 25, and 26 lack novelty under PCT Article 33(2) as being anticipated by Waelti et al(WO 01/38820).

Waelti et al teach an interferometer sample arm that contains an arrangement(120) for providing a delay in at least one of two radiations.

Claims 2-10, 14-20, and 24 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest generating a plurality of images based on the radiations of the sample arm and a reference arm.

## NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

**The following examples illustrate the manner in which amendments must be explained in the accompanying letter:**

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:  
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:  
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:  
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or  
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:  
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

### **"Statement under Article 19(1)" (Rule 46.4)**

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

**It must be in the language in which the international application is to be published.**

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

### **Consequence if a demand for international preliminary examination has already been filed**

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

### **Consequence with regard to translation of the international application for entry into the national phase**

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.